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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,919	09/19/2003	Henryk Birecki	200314736-1	7056
22879	7590	02/22/2006		
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER BODDIE, WILLIAM	
			ART UNIT	PAPER NUMBER
			2674	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/665,919

Applicant(s)

BIRECKI, HENRYK

Examiner

William Boddie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/19/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 14-21, 23-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Varveris (US 6,249,277).

**With respect to claim 1**, Varveris discloses, an ergonomic pointing device (strap-type finger stylus, 10 in fig. 1) manipulated by a finger of a user (20 in fig. 1) to initiate an action in a device, comprising: a holder (strap, 11 in fig. 1) adapted to be mounted on at least a portion of the finger (24 in fig. 1) of the user (col. 3, lines 60-65; and col. 4, lines 11-14); a pointing implement (12 in fig. 1); and a means connected with the holder for mounting the pointing implement on the holder (14,15 in fig. 1), wherein the user manipulates the finger to urge the pointing implement into contact with the device to initiate the action (col. 2, lines 8-15).

**With respect to claim 2**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) further includes an end portion that tapers to a point (13 in fig. 1, while not a sharp point 13 is a point nonetheless) and the user manipulates the finger (20 in fig. 1) to urge the end portion of the pointing implement into contact with the device (col. 2, lines 8-15) to initiate the action (col. 1, lines 6-13).

**With respect to claim 3**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) comprises an implement selected from the group consisting of a stylus (col. 4, lines 4-6), a writing implement, a needle, a pin, a needle, and a tooth pick.

**With respect to claim 4**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) is urged into contact with a component carried by the device (col. 2, lines 8-15) and the component is selected from the group consisting of a touch-sensitive display (col. 1, lines 6-13), a touch-sensitive cursor pad, and a switch.

**With respect to claim 5**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) is a selected one of fixedly mounted on the holder or removable mounted on the holder (col. 4, lines 4-10).

**With respect to claim 6**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) is movable in the holder (col. 4, lines 4-10).

**With respect to claim 7**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement (12 in fig. 1) is movable on the holder (11 in fig. 1) between an engaged position (fig. 2) wherein the pointing implement is positioned to make the contact with the device to initiate the action and a non-engaged position (fig. 1) wherein the pointing implement is not positioned to make

contact with the device (col. 4, lines 4-10 details the movable positioning of the pointing implement, also note the difference in engaged and non-engaged in figures 1 and 2).

**With respect to claim 8**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the holder (60 in fig. 10) comprises a sleeve (61 in fig. 10) and the holder is mounted to the finger by inserting the finger through the sleeve (fig. 10, col. 5, lines 20-24).

**With respect to claim 9**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement is disposable (col. 4, lines 4-6 details a wooden stylus rod, wood is inherently disposable).

**With respect to claim 10**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the pointing implement is recyclable (col. 4, lines 4-6 details a wooden stylus rod, wood is inherently recyclable).

**With respect to claim 14**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above), wherein the means for mounting the pointing implement (12 in fig. 8) to the holder comprises a holster (41 in fig. 8) connected with the holder (43,44 in fig. 8) and adapted to receive the pointing implement (holster is equivalent to the fabric, 41 in fig. 8, see col. 5, lines 5-13).

**With respect to claim 15**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the holster (41 in fig. 8) is fixedly connected with the holder (47 in fig. 8; col. 5, lines 5-13).

**With respect to claim 16**, Varveris discloses, the ergonomic pointing device as set forth in claim 15 (see above), wherein the holster (41 in fig. 8) is fixedly connected

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with the holder (43,44 in fig. 8) using a thread (note the threaded/adhesive hem connections of the two pieces (47), also see col. 5, lines 5-13)

**With respect to claim 17**, Varveris discloses, the ergonomic pointing device as set forth in claim 15 (see above), wherein the holster (35 in fig. 6) is removably connected with the holder (32 in fig. 5) using a clip (figs. 5-7 detail a removable clip holster, that is adapted to receive the stylus, also see col. 4, lines 56-66).

**With respect to claim 18**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing implement (12 in fig. 8) is movable on the holder between an engaged position wherein the pointing implement is positioned to make the contact with the device to initiate the action and a non-engaged position (col. 2, lines 7-15) wherein the pointing implement is not positioned to make contact with the device (col. 4, lines 4-10 detail the movable positioning of the pointing implement, also note col. 5, lines 11-13).

**With respect to claim 19**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing implement (12 in fig. 8) is removably mounted on the holder (col. 5, lines 11-13).

**With respect to claim 20**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the holster (35 in fig. 6) further includes a resistance element (49a in fig. 5) in contact with the holster and the pointing implement and operative to retain the pointing implement in an arbitrary position in the holster until the user moves the pointing implement to a new position in the holster (col. 4, lines 64-66).

**With respect to claim 21**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing element (12 in fig. 8) further includes a resistance element (48 in fig. 8) in contact with the holster (41 in fig. 8) and the pointing implement are operative to retain the pointing implement in an arbitrary position in the holster until the user moves the pointing implement to a new position in the holster (col. 5, lines 9-13).

**With respect to claim 23**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing implement (12 in fig. 5) is disposable (col. 4, lines 4-6 details a wooden stylus rod, wood is inherently disposable).

**With respect to claim 24**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing implement (12 in fig. 5) is recyclable (col. 4, lines 4-6 details a wooden stylus rod, wood is inherently recyclable).

**With respect to claim 27**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above), wherein the pointing implement (12 in fig. 5) is movable in the holder (col. 4, lines 4-10).

3. Claims 1 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobs (US 36,652).

**With respect to claim 1**, Jacobs discloses, an ergonomic pointing device (pen holder in fig. 1) manipulated by a finger of a user to initiate an action in a device (col. 2, 2<sup>nd</sup> para.), comprising: a holder (A in fig. 2) adapted to be mounted on at least a portion of the finger of the user (col. 1, 3<sup>rd</sup> para.); a pointing implement (pen in fig. 2); and a means connected with the holder for mounting the pointing implement on the holder (B

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in fig. 2), wherein the user manipulates the finger to urge the pointing implement into contact with the device (the device is equivalent to either the paper in fig. 1, journal in fig. 2, or the canvas in fig. 3) to initiate the action (the action being initiated in this case is writing (placement of ink)).

**With respect to claim 13**, Jacobs discloses, an ergonomic pointing device as set forth in claim 1 (see above), wherein the holder (A in fig. 2) is a component selected from the group consisting of a finger cot and a finger splint (Applicant seems to be specifying the holders of types seen in Applicant's figs. 4 and 16. Jacobs discloses just such a closed ended holder in column 2, paragraph 1.).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Varveris (US 6,249,277) in view of Knowles et al. (US 2002/0126104).

**With respect to claim 11**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above).

Varveris does not expressly disclose that the ergonomic pointing device is sterilized (col. 4, lines 4-6 discloses a rigid rubber stylus and use of hook and loop material for the strap. Sterilization of these materials is well founded and commonly



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practiced in environments where sterilization was necessary at the time of the invention.)

Knowles discloses constructing a touch pad interface that can withstand aggressive sterilization procedures (para. 4, lines 1-4, also note para. 11).

Knowles and Varveris are analogous art because they are from the same field of endeavor namely touch screen interfaces.

At the time of the invention it would have been obvious to one of ordinary skill in the art to sterilize the pointing device of Varveris as taught by Knowles.

The motivation for doing so would have been, to eliminate any contaminants from the device when use occurs in a sterile environment.

Therefore it would have been obvious to combine Knowles with Varveris to sterilize the pointing device to obtain the invention as specified in claim 11.

6. Claims 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varveris (US 6,249,277).

**With respect to claim 12**, Varveris discloses, the ergonomic pointing device as set forth in claim 1 (see above).

Varveris does not expressly disclose that the holder is mounted on the finger using an adhesive connected with the holder.

As shown above in the rejection of claim 17, Varveris teaches mounting the holder to the user's finger. Varveris proposes accomplishing the mounting using VELCRO. It is the Examiner's position that the specific use of an adhesive to mount the holder to the user's finger is merely a design choice brought on by a user preference.

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As such it would have been obvious to one of ordinary skill in the art to mount the holder to the user's finger with an adhesive.

**With respect to claim 22**, Varveris discloses, the ergonomic pointing device as set forth in claim 14 (see above) comprising: a means for locking the pointing implement in a user preferred position in the holster (48 in fig. 8, col. 5, lines 9-13; Varveris' serrations are equivalent to the Applicant's o-ring (18o in fig. 11) that enables locking).

While Varveris does not explicitly disclose the use of the serrated stylus rod with the second, holster, embodiment (figs. 5-7) it would have been obvious to one of ordinary skill in the art to use the serrated stylus rod of the third embodiment (fig. 8) in the holster embodiment. The motivation would have been to provide a stronger more frictioned fit within the holster clip.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holton (US 2,921,590) discloses using adhesive to mount a finger brush to a user's finger.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Will Boddie whose telephone number is (571) 272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wlb  
2/14/06

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